



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAR 05 2008

OFFICE OF  
AIR AND RADIATION

The Honorable Henry A. Waxman  
Chairman  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
Washington, D.C. 20515-6143

Dear Mr. Chairman:

Thank you for your letter of February 6, 2008, in which you requested that the U.S. Environmental Protection Agency (EPA) Administrator reconsider the proposed rulemaking entitled "Prevention of Significant Deterioration New Source Review: Refinements of Increment Modeling Procedures," citing environmental concerns. I would like to respond to some of the concerns you have expressed about this proposal.

Your February 6 letter outlines concerns with EPA's proposed approach on several issues, including: (1) whether annual average emissions should be allowed for evaluating 24-hour and 3-hour pollution levels; (2) whether reviewing authorities should be allowed to select the period of time to use in determining actual emissions; (3) whether this proposal gives special treatment to pollution from sources operating under a variance by allowing the permitting agency to pretend that those sources of pollution did not exist; and (4) whether this proposal should allow the use of proprietary models and methodology for calculating actual emissions. In addition, you request that the Administrator provide you with an explanation of how this proposal was cleared for signature and why concerns identified by the key technical staff were allegedly ignored.

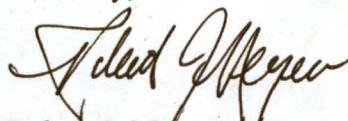
I want to assure you that all interested offices within EPA, including technical staff in the Regional Offices, had full opportunity to express their concerns with earlier drafts of the proposed rule and all concerns were considered prior to publication of the proposal. Ultimately, the Administrator must consider the full range of advice from staff, and make the best policy decision, and that is what was done in deciding what options to propose. We are still considering external comments received on our proposal (including your letter), and we will have another round of internal discussions involving technical staff and others as we decide whether and how to proceed with the rule.

The four issues on which you have expressed concerns are issues that we specifically sought comment on in our proposal. We received and are now considering numerous public comments on this proposal. EPA has not made any final decisions on the issues discussed in your February 6 letter. At the same time, I am concerned from the descriptions in your letter that you may have overlooked some important considerations that were discussed at the time of proposal. For example, you characterize the proposal for addressing the variance issue as

“pretending that a source permitted under a variance does not exist.” This characterization does not take note of the fact that, although the Federal Land Manager granted a source a variance from the Class I increment, the permit must, nonetheless, model the Class II increment *including* the variance source. Thus, I would encourage you and your staff to consider the full extent of factors discussed in the published proposal for each issue, and not to base your assessment solely on staff deliberations over earlier drafts of the proposal that were modified prior to publication.

Again, thank you for your letter. If you have further questions, please contact me, or your staff may call Josh Lewis, in the Office of Congressional and Intergovernmental Relations, at (202) 564-2095.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert J. Meyers".

Robert J. Meyers  
Principal Deputy Assistant Administrator